

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SPENCER DULAL WHITEWAY,

Petitioner,

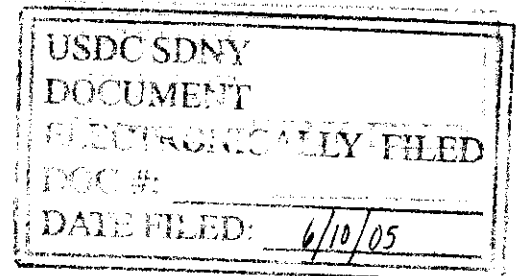
-v-

U.S. DEPARTMENT OF HOMELAND SECURITY,

Respondent.  
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04 Civ. 6856 (DLC)

ORDER



DENISE COTE, District Judge:

The instant petition for a writ of habeas corpus brought by Spencer Dulal Whiteway, Alien Number A45-164-992, under 28 U.S.C. § 2241 challenging an order of removal was filed with this Court on August 24, 2004. On May 11, 2005, the Real ID Act of 2005, Pub. L. No. 109-13, § 106, 119 Stat. 231 (May 11, 2005) ("Section 106") was enacted. Under Section 106, "a petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act." The Act also provides:

[i]f an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed . . . .

The Act states that these provisions shall apply to cases "in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this Act." Accordingly, it is hereby

ORDERED that this action is transferred as a Petition for Review to the United States Court of Appeals for the Second Circuit pursuant to Section 106. The Clerk of Court shall close the matter under this docket number.


IT IS FURTHER ORDERED that the order of removal is stayed pending a decision on this petition by the Court of Appeals.

IT IS FURTHER ORDERED that the Clerk of Court shall serve a copy of this Order and the underlying petition on the United States Attorney for the Southern District of New York who is further directed to inform immediately the Bureau of Immigration and Customs Enforcement ("BICE") of the stay of removal.

IT IS FURTHER ORDERED that the Clerk of Court shall serve a copy of this Order and the underlying petition on the BICE Field Office Director for New York.

SO ORDERED:

Dated: New York, New York  
June 9, 2005

  
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DENISE COTE  
United States District Judge